IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

DOUGLAS FAUCONIER	:	
Petitioner	:	
v	:	Civil Action No. RDB-05-2897
FRANK C. SIZER, JR.	:	
Respondent	:	

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MEMORANDUM OPINION

The above-captioned Petition for Writ of Mandamus, filed on October 20, 2005, seeks an order from this Court requiring Respondent to provide Petitioner with a copy of his state post-conviction transcript free of cost. Paper No. 1. Petitioner asserts that he is in the process of drafting a federal petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 and needs a copy of his post-conviction transcript for that purpose. *Id*. Although it is unclear from whom Petitioner seeks a copy of the transcript, a federal writ of mandamus is unavailable for this purpose.

This Court does not have jurisdiction over state employees in an action for writ of mandamus. *See Gurley v. Superior Court of Mecklenburg County*, 411 F.2d 586, 587 (4th Cir. 1969); *see also* 28 U.S.C. § 1361. Additionally, a writ of mandamus is an extraordinary writ that is only available in cases where no other means by which the relief sought could be granted. *See Kerr v. United States Dist. Court for the N. Dist. Of Cal.*, 426 U.S. 394, 402 (1976); *In re Beard*, 811 F.2d 818, 826 (4th Cir.1987). Assuming that the remedy sought by Petitioner is available in a state forum, it does not appear that Petitioner has pursued those remedies and, as a matter of comity, this Court will not intervene in a matter that the State courts have not had an opportunity to address. *See*

Granberry v. Greer, 481 U.S. 129, 134-35 (1987). Accordingly, by separate order which follows, the Petition shall be dismissed.

November 17, 2005
Date

/s/
RICHARD D. BENNETT
UNITED STATES DISTRICT JUDGE